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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

BONNIE MCELRATH,

Plaintiff,

v.

FISH RITE, Inc., an Oregon
Corporation, JAMIE DORSEY, SR.,
AND BARBARA DORSEY,

Defendants.

Case No. CV-08-1159-KI

PLAINTIFF'S MOTION FOR
DEFAULT, OR TO STRIKE
(ORAL ARGUMENT REQUESTED)
(TELEPHONE HEARING
REQUESTED)

L.R. 7.1 (a)(i) CERTIFICATE OF COMPLIANCE

I hereby certify that I made a good faith effort to resolve the issue raised
in these motions by a phone conference with defense counsel, Joseph Charter,
but our efforts to resolve the issues failed.

MOTIONS

Plaintiff moves for an Order entering a default against the defendants and each of them, for failure to timely file their answer.

Alternatively, Plaintiff moves for Orders striking from Defendant's Answer filed November 19, 2009 the following:

1. Defendant's First Affirmative Defense; and/or
2. Defendant's Second Affirmative Defense; and/or
3. Defendant's Third Affirmative Defense; and/or
4. Defendant's Fourth Affirmative Defense; and/or
5. Defendant's Fifth Affirmative Defense; and/or
6. Defendant's Sixth Affirmative Defense; and/or
7. Defendant's Seventh Affirmative Defense; and/or
8. Defendant's First Counter-Claim.

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1 In support hereof, Plaintiff relies upon defendant's failure to comply with
2 FRCP 12(4)(A), the law of the case, the fact that a request for attorney fees in
3 defending a case is not a counterclaim, the BOLI probable cause finding issued
4 in Plaintiff's favor on the underlying facts of this case, the records and
5 documents now in the court file, the memorandum supporting this motion and
6 the Declaration of Charles J. Merten attached to said memorandum.
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8 DATED: November 24, 2009

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11 Charles J. Merten, OSB #630582
12 Attorney for Plaintiff
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